

**From:** Brian Pepper  
**To:** Microsoft ATR  
**Date:** 1/23/02 6:20pm  
**Subject:** Microsoft Settlement

To whom it may concern:

This letter's purpose is to comment as allowed under the Tunney Act upon the proposed final judgement in the Microsoft anti-trust case. If I have sent it to the wrong address or it reaches you in error, please forward it to the proper address.

I disagree with this proposed settlement. As an open-source programmer, I am especially disheartened by the leniency with which Microsoft gets off in terms of releasing information on their APIs. This settlement is unacceptable, because it doesn't even require that they say which are patented! This is a nightmare to anyone creating a competing implementation, because they don't know what they can and cannot emulate. At the very least, the settlement must be modified to force full disclosure of the patents.

Further, it doesn't require full disclosure of their APIs! (Definition K defines "Microsoft Middleware Product" to mean, in short, Internet Explorer, Microsoft Java, Windows Media Player, Windows Messenger, and Outlook Express.) This is, again, unacceptable. Take a person creating a game on Windows to compete with any of Microsoft's. By allowing Microsoft to keep some of their DirectX APIs secret, the potential competitor is forced to use only the functions Microsoft chooses to release. What if Microsoft kept certain functions to themselves that were faster or better than those they released? The competitor's game is locked into being of lower quality. I would support full disclosure of every API Microsoft has created, in a simple and easily understood format. Further, many of their simpler APIs, such as Windows Messenger and Windows Media Player, should also be disclosed in source code.

I hope my comments will be useful to you, and I hope you will reconsider what is a very poor settlement. As a citizen, I feel this current settlement is little more than a slap on the wrist to a company that has done real wrong, and has hurt both its competition and its consumers. Thank you for your time.

Sincerely,  
Brian Pepper